

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

UNITED STATES OF AMERICA

Plaintiff

Case No. CR-3-00-019

v.

WALTER M. MAKEN

Defendant

Judge Walter Herbert Rice

Supplement to

Requests for Determination & Stay & Return of already-confiscated funds

* * * * *

On Thursday, January 13, 2011, I received a copy of Doc # 640, as filed "01/11/11", from the U.S. Department of Justice (USDOJ). This Supplement is in response to that document. All as more fully elaborated upon in the Memorandum section that follows.

Walt Maken

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Memorandum

8. As shown in the above referenced Doc # 640, the USA/AUSA, and possibly others at the USDOJ, have seemingly misconstrued and, as a result, misrepresented the true nature of my Requests as well as the true nature of the consistent determinations by the IRS, as evidenced by the repeated misstatements throughout that document. If such misstatements and misrepresentations were to be uncritically accepted at face value, a false and erroneous impression of the true nature of my requests would likely be formed by a reader of my Requests.

9. To the extent that such misconstruings and misrepresentations are innocent and accidental, no additional harm has been done yet. However, whether such USDOJ misstatements are accidental or are deliberate, since neither I nor the IRS have actually said what the USDOJ alleges in Doc. # 640 that we have said, it is important that such misstatements and misrepresentations be spotlighted for what they are so that this Court can be assured of the true nature of my requests as well as of the IRS determinations.

10. Specifically, in the first paragraph on Page 1 of 3 of Doc. # 640, the USDOJ misstates

and misrepresents the true nature of my requests by saying, in part "...Defendant is requesting the Court to make a determination that the debt is uncollectible...." I never made such an unqualified request.

11. Further, in the second paragraph on Page 1 of 3 of Doc. # 640, the USDOJ misstates and misrepresents the true nature of the IRS determinations by saying, in part "...the determination by the Internal Revenue Service that the debt is uncollectible." The IRS, to the best of my knowledge and understanding, has never made such an unqualified determination.

12. Then, in the third paragraph on Page 1 of 3 of Doc # 640 and continued on into Page 2 of 3, the USDOJ misstates and misrepresents the true nature of the IRS's choice by saying, "Defendant is not absolved of liability pursuant to this Court's Order simply because the Internal Revenue Service has chosen not to collect the tax liability....." To the best of my knowledge and understanding, the IRS has not made such an unqualified choice. Further, a careful reading of my filings in this matter would reveal that while in my at no time have I requested or even inferred that I be "absolved of liability" in the matter.

13. The USDOJ makes yet another misstatement and misrepresentation of my Requests in the first sentence of the first full paragraph on Page 2 of 3, saying, in part, that "While Defendant requests this Court issue a determination that the liability is uncollectible..." Does the USDOJ feel that if it repeats such misstatements and misrepresentations enough times that somehow their false and unqualified statements will suddenly become considered as true statements?

14. In paragraph 2 of my "Requests..." that I filed with this court on January 6, 2011, I stated, in part, that "In the absence of any other publicly-published similar [to the IRS CFS] USDOJ financial standards being brought to this court's and my attention,...." Conspicuous by its absence from Doc. # 640, is any reference by the USDOJ to any specific similar standards that the USDOJ follows in its financial collection attempts.

15. Instead, vague, non-specific, reference is made by the USDOJ to unnamed "practices and procedures for enforcement of civil judgments...". And as if to imply that the IRS Collection Financial Standards have no relevance to or bearing on USDOJ collection efforts, the USDOJ states in its response, "Hence, the United States Attorney's Office [hereinafter USAO], not the Internal Revenue Service, is responsible for collecting the criminal monetary penalties assessed against Defendant."

16. However, while the USAO may indeed be "responsible for collecting" such penalties, all this court needs to do to find out whether the IRS Collection Financial Standards [hereinafter IRS CFS] have any relevance or bearing on USDOJ activities, is to go to the USDOJ website, <http://www.justice.gov/>, and simply search for "collection financial standards" [including the quotes], and you will finally end up with a total of 35 references to those attempted-to-be-ignored IRS CFS. These results can be verified by this court and any other interested party, by going to http://searchjustice.usdoj.gov/search?%20%20%20sort=date:D:L:d1&output=xml_no_dtd&ie=UTF-8&oe=UTF-8&client=default_frontend&proxystylesheet=default_frontend&site=default_colle

ction&q=%22collection+financial+standards%22&as_sitesearch=www.justice.gov&btnG=Search&ip=10.14.4.33&access=p&entqr=3&ud=1&filter=0&sort=date:D:L:d1&start=0. After seeing those results, one has to wonder about the motives of the USDOJ for trying ignore the IRS CFS, and well as their efforts to create the false impression that such standards have nothing to do with USDOJ efforts.

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17. In paragraphs 8 thru ~~12~~ above, I plainly state that the USDOJ has misstated and misrepresented my Requests in this matter. Specifically, I have not asked nor implied that I am wanting the "judgment debt" to be determined to be "uncollectible". I am simply asking that the "judgment debt" be determined to be "**currently uncollectible**". As any reasonable person can see, there is an obvious, night-and-day difference between such debt being totally uncollectible, as implied by the USDOJ by their use of the term "uncollectible" by itself and unqualified in any way, and such debt simply being **currently** uncollectible, due to my level of monthly financial support from social security that is **currently** a minimum of \$652 below what the IRS **currently** allows in my circumstances.

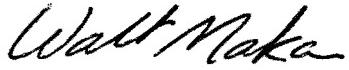
18. If the USDOJ's implications contained in Doc. # 640 that the IRS CFS have no relevance or bearing whatsoever to the USDOJ efforts to further confiscate significant funds from my monthly social security HAD been accurate, then that would have provided important evidence that the USDOJ is operating in an arbitrary, discriminating manner. Is it unreasonable for me to expect to be treated in a consistent, fair and uniform manner in this matter, regardless of which branch or department of the United States government is involved? Aren't we talking about ONE federal government with multiple branches and departments rather than each branch or department operating as a separate "government" with it's own "practices and procedures" that are unrelated to and inconsistent with any consistent standards?

19. If the requests of the USDOJ, as contained in Doc. # 640, were to be granted, it would appear to amount to an acceptance and approval by this court for the USDOJ to conduct its business without reference to any fair, consistently applied, collection financial standards. As such it would also appear to amount to a granting of permission for the USDOJ to operate as a "rogue" element in the federal government, without being held to any consistent, across-the-board standards. If the USDOJ does have collection financial standards practices and procedures for enforcement that would supercede those national collection standards established by the IRS, then I ask this court to require the USDOJ to publicly reveal and give due written notice of such practices and procedures. If the USDOJ does not have any different collection financial standards of its own, and if, as indicated on the USDOJ's own website, that the USDOJ does indeed use the IRS CFS as their standard also, then I reiterate my request, as originally stated in paragraph 2 of my "Requests...." filed on January 6, 2011, for this court to give significant weight to the IRS CFS in its consideration of my Requests.

20. Based on the above revealed misstatements and missrepresentations of the USDOJ in Doc. # 640, I reiterate my requests for this court to determine that the "judgment debt" is **currently** uncollectible, issue a stay against the arbitrary and discriminating OFFSET action threatened in Exhibit A and to expedite the return of the \$3,984.25 that was previously

confiscated by the USDOJ contrary to the IRS CFS and the consistent IRS determinations of being **currently** uncollectible. While the USDOJ statement that "...the debt is a valid debt..." may indeed be accurate, the collection of that debt must be made pursuant to consistent, publicly declared practices and procedures, rather than in an arbitrary and discriminating manner that has characterized the USDOJ efforts in the matter.

Thank you for your consideration,



Walt Maken

Certificate of Service

I, Walt Maken, certify that after filing this Supplement on Friday, January 21, 2011, I will mail, via regular first class mail, a date-stamped copy of this Supplement, to: Cloteal Turner, Legal Technician; Financial Litigation Unit; United States Attorneys Office; Southern District of Ohio; 303 Marconi Boulevard, Suite 200; Columbus, Ohio 43215-2401, as she has previously requested.



Walt Maken